

[Dkt. No. 127]

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY  
CAMDEN VICINAGE

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ASTRAZENECA LP and  
ASTRAZENECA AB,

Plaintiffs,

v.

IVAX PHARMACEUTICALS, INC.,

Defendant.

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Civil No. 05-5142 (RMB)

**TEMPORARY RESTRAINING ORDER**

THIS MATTER having been presented to the Court upon application for a Temporary Restraining Order by counsel for plaintiffs AstraZeneca LP and AstraZeneca AB ("AstraZeneca"), pursuant to Rule 65 of the Federal Rules of Civil Procedure and Local Civil Rule 65.1, against defendant Ivax Pharmaceuticals, Inc. ("Ivax"), and the Court having read and considered the materials submitted herewith, and for the reasons set forth on the record, it appearing that the matter presented herein will cause immediate and irreparable harm and is of a sufficiently emergent nature to justify the entry of this Order, and it appearing to the Court that immediate and irreparable harm will likely result to AstraZeneca before the hearing can be held on its application for preliminary injunctive relief, and that this application is properly addressed by entering a Temporary

Restraining Order, and upon good cause having been shown,

IT IS on this 19th day of November, 2008,

ORDERED that:

1. Defendant Ivax and its officers, agents, servants, employees, attorneys, and any and all other persons or entities acting by, through, under or in active concert or in participation with any or all of them, including, but not limited to, Teva Pharmaceutical Industries, Ltd. ("Teva"), are hereby temporarily restrained from making, using, selling, offering for sale, or importing generic BIS;

2. Defendant Ivax (and its officers, agents, servants, employees, attorneys, and any and all other persons or entities acting by, through, under or in active concert or participation with any or all of them, including, but not limited to, Teva) shall immediately and forthwith send their customers for generic BIS sold to date, by facsimile and email, a letter (in the form attached hereto):

- (i) providing such customers a copy of this Order and advising them that the Court has held that the Ivax generic BIS product shall not be used, marketed, sold or offered for sale pending this Court's decision on AstraZeneca's motion for a preliminary injunction in this patent case;
- (ii) such letter shall further instruct these

customers to provide the same letter to their customers; and

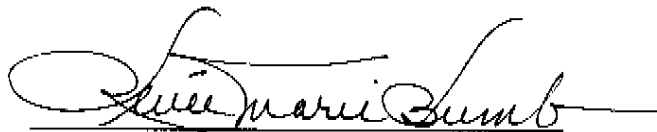
- (iii) retracting immediately in writing any offers for sale of the Ivax Products made to any customers or potential customers;

3. This Temporary Restraining Order shall remain in full force and effect until further Order of this Court;

4. AstraZeneca agrees that it will withdraw its authorized generic product promptly from the market and AstraZeneca agrees to issue a letter similar to the form of letter above;

5. AstraZeneca shall post a bond of \$1,000,000, or such other amount as modified by this Court, on or before November 24, 2008, at 4:00 p.m., and shall be allowed to act as its own surety for such bond;

6. The Court will commence the preliminary injunction hearing on November 25, 2008, at 1:30 p.m. At that time, the Court will discuss rule 65(a)(2) consolidation

A handwritten signature in cursive script, reading "Renée Marie Bumb", written in black ink.

RENÉE MARIE BUMB  
UNITED STATES DISTRICT JUDGE

Attachment to TRO  
November 19, 2008

Re: Ivax Generic BIS

Dear [Customer],

On November 19, 2008, the United States District Court for the District of New Jersey issued a Temporary Restraining Order preventing Ivax and Teva from using, selling, offering for sale or importing Ivax's generic BIS product (generic PULMACORTE® Respules) ("the Product").

We enclose a copy of the Court's Order to which reference should be made. In accordance with that Order, we formally request that you:

1. Refrain from using, selling, offering for sale or further distributing the Product;
2. Retract immediately any offers to sell, deliver or in any way distribute the Product;
3. Send a copy of this letter and the Order to each person or entity to whom you have sold, delivered or in any way distributed the Product, requesting that they comply with the terms of the Order and, in turn, send a copy of this letter and the Order, and the same requests contained in this letter, to any person or entity to which they have sold, delivered or in any way distributed the Product.